



April 23, 1999

Ms. Jennifer D. Soldano
Associate General Counsel
Texas Department of Transportation
125 E. 11th Street
Austin, Texas 78701-2483

OR99-1093

Dear Ms. Soldano:

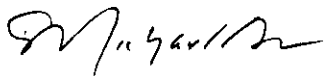
You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 123662.

The Texas Department of Transportation (the "department") received a request for information concerning applications for a certain employment position. The requestor asks for (1) applications of each person interviewed, (2) questions asked each applicant, and (3) responses to the questions given by the interviewees. You state that the department will provide the items responsive to request item 1. You assert that the information responsive to request items 2 and 3 is excepted from required public disclosure by section 552.122(b) of the Government Code. However, you have only supplied information responsive to item 2 for our inspection. As no information responsive to item 3 was submitted for our review, this information is considered public and must be released. *See Gov't Code §§ 552.301(b)(3), 552.302.*

Section 552.122(b) of the Government Code excepts from disclosure a test item developed by a licensing agency or governmental body. "Test item" includes "any standard means by which an individual's or group's knowledge or ability in a particular area is evaluated." Open Records Decision No. 626 at 6 (1994). An evaluation does not necessarily constitute a test, however, simply because it is labeled as a test, because it is comprised of questions and answers, or because it involves some sort of scoring system. *Id.* We find that the submitted questions are a standard means by which applicants' knowledge in a particular area is evaluated. Information responsive to request item 2 are thus "test items" excepted from disclosure by section 552.122(b).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael J. Burns", with a stylized flourish at the end.

Michael J. Burns
Assistant Attorney General
Open Records Division

MJB/ch

Ref: ID# 123662

encl. Submitted documents

cc: Mr. Noe Beltran
313 W. Los Ebanos
San Juan, Texas 78589
(w/o enclosures)